

Copyright and Fair Use of Audio Visual Works

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Definition of Copyright

- Mirriam-Webster defines copyright as “the exclusive legal right to reproduce, publish, sell, or distribute the matter and form of something.”
- Copyright protects literary works, music, dramatic works, pantomimes, choreographic work, pictorial, graphic, sculpture works, motion pictures, audio/ visual works, sound recordings, and architecture.
- The owner of the copyright has the rights to reproduce, adapt, distribute, perform, display, or transmit their work.

Definition of Fair Use

- The Fair Use Doctrine allows individuals to use material that has a copyright without seeking permission. There are four factors to consider when determining if something is fair use.
 - Purpose of use
 - Nature of the copyrighted work
 - Amount of the work used
 - Effect of market value
- A judge will use these criteria in order to determine if a copyright was infringed upon.

Types of Audio-Visual Works

- Types of Audio-Visual works that are protected include but are not limited to:
 - Feature films
 - YouTube Videos
 - Video recorded off-air

Feature Films

- A teacher may show a movie in class as long as it is legally purchased or rented.
 - Teacher (or substitute) must be present
 - Showing must take place somewhere devoted to instruction
 - May not be used for a club or public gathering where viewers are invited.

YouTube Videos

- A teacher may show a YouTube Video in class.
 - YouTube videos follow many of the same Fair Use Rules as Movies.
 - Teachers may share YouTube Videos on their websites if an embed code is provided by YouTube.
 - Videos may not be downloaded and posted in another place.

Video Recorded Off-Air

- Teachers may show videos recorded off-air as long as they follow some guidelines.
 - Only content that is broadcast to the general public should be taped. (no Showtime, HBO, Disney Channel, ESPN, or any other cable service)
 - The school should tape the program for the teacher.
 - The tape should be shown within 10 school days of the recording.
 - The tape should not be altered.
 - After 10 days the teacher may review the video, but a license must be purchased for future use with a class.
 - The tape should be destroyed within 45 calendar days.
- Other uses may be okay, consider the four factors of fair use in order to determine if it applies.

Scenario #1

- Mr. Smith would like to show his class a movie. He stopped by a local Red Box and picked the movie up. Mr. Jones teaches the same class at the same time and would also like to show his class the movie. The teachers decide to make a copy of the DVD so they can both show the movie at the same time. They will destroy the copied DVD after it is used.

Scenario #1 Answer

- Some of the things mentioned here are okay, but it is not legal to make a copy of a movie.
- Mr. Smith is okay to show the movie to his class since he legally rented the DVD from Red Box.
- Mr. Smith and Mr. Jones could merge their classes into the same room as long as the venue is used for instruction and a teacher is present.
- Mr. Smith and Mr. Jones could choose to show the movie at different times.

Scenario #2

- In September, Mr. Robinson recorded an episode of 20/20 that he would like to show to his forensics class. The topic discussed in the episode does not fit into his curriculum until March. Can Mr. Robinson place the recording on his shelf and wait until March to show it to his class?

Scenario #2 Answer

- If Mr. Robinson is going to show the recording he must use it within 10 school days of the recording. He must destroy the recording after 45 days.
- In order to show the recording in March he will need to purchase a license that will allow him to do so.

Scenario #3

- A teacher would like to show a movie at a club meeting afterschool. The teacher purchased a legal copy of the video.

Scenario #3 Answer

- This would not be considered fair use since club members are receiving an invitation to view the movie.
- The teacher would need to seek additional permission from the copyright holder or purchase the appropriate license.

References

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